



Paper No. 8

Jon E. Hokanson
Small Larkin, LLP
18th Floor
10940 Wilshire Boulevard
Los Angeles, CA 90024

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OFFICE OF PETITIONS

In re Application of
Russell Morgan and Adam Hemsley
Application No. 10/027,485
Filed: December 21, 2001
Title of Invention: SECURE POINT-OF-SALE
CELLULAR TELEPHONE DOCKING MODULE:
SYSTEM

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 28, 2002.

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 21, 2001, without an executed oath or declaration. Accordingly, on January 30, 2002, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration and a \$65.00 surcharge for its late filing.

In response, on April 9, 2002, applicant filed a \$65.00 surcharge, a partially executed oath and the present petition. The petition was dismissed on July 23, 2002 for not providing sufficient evidence inventor Hemsley was provided with a copy of the entire application and was given an opportunity to join the application.

A grantable petition under 37 CFR §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and, (4) a statement of the last known address of the non-signing inventor.

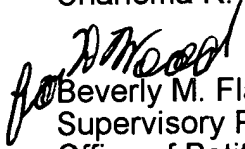
As to item (1) rule 47 applicant indicates a copy of the complete application was sent via certified mail to inventor Hemsley at his last known address. Applicant also indicates receipt was confirmed with the return receipt. However, although applicant indicates documentary evidence has been provided to establish the mailing and receipt of the application papers, such documentary evidence has not been provided with the petition. It should also be noted the petition has not been executed as such the Office

can not consider the petition as having been ratified. See 37 CFR 1.4. A phone call to obtain the documentary evidence and a signed petition went unanswered.

Accordingly, petitioner's request for withdrawal from prosecuting the application will not be addressed pursuant to MPEP 402.06.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251.


Beverly M. Flanagan
Supervisory Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy